

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CEDAR VIEW, LTD.,)	
)	Case Nos. 5:05-CV-00782
Plaintiff,)	5:06-CV-01367
)	
v.)	JUDGE ANN ALDRICH
)	
TOM COLPETZER, et al.,)	
)	<u>ORDER</u>
Defendants.)	
)	
)	
)	

The court has received and reviewed the following motions and associated briefs docketed under case number 05:05-CV-782:

1. Plaintiff Cedar View's Motion for New Trial; Motion to Amend Findings [Doc. No. 356]
2. Defendant Moose's Motion to Strike Plaintiff's Motions to Amend Findings; Motion for New Trial [Doc. No. 357]
3. Defendant Colpetzer's Motion to Strike Plaintiff's Motion to Amend Findings and Motion for New Trial [Doc. No. 360]

The court has also received and reviewed the following identical motions and associated briefs docketed in the companion case under number 5:06-CV-01367:

4. Plaintiff's Motion for New Trial; Motion to Amend Findings [Doc. No. 82]
5. Defendant Moose's Motion to Strike Plaintiff's Motions to Amend Findings; Motion for New Trial [Doc. No. 83]
6. Defendant Colpetzer's Motion to Strike Plaintiff's Motion to Amend Findings and Motion for New Trial [Doc. No. 84]

Given that no trial has taken place, Cedar View's motion for a new trial will be construed as a motion for reconsideration pursuant to Federal Rule of Civil Procedure 59(e). Defendants' motions to strike will be construed as briefs filed in opposition to Cedar View's motion for reconsideration. *See Patin v. Allied Signal, Inc.*, 77 F.3d 782, 785 n.1 (5th Cir. 1996) (finding that a motion for a new trial

filed after summary judgment is properly considered pursuant to Rule 59(e)); *Jones v. Nelson*, 484 F.2d 1165, 1167 (5th Cir. 1973) (finding that a motion for new trial after summary judgment is entered is technically incorrect and construing motion pursuant to Rule 59 instead).

The court grants Cedar View's motion to reconsider its order of October 23, 2007 pursuant to Rule 59(e). Following the court's reconsideration of the issues briefed in Cedar View's motion [Doc. Nos. 356 and 82, collectively], a separate order will be issued.

IT IS SO ORDERED.

s/Ann Aldrich

ANN ALDRICH

UNITED STATES DISTRICT JUDGE

Dated: September 30, 2008